

FOREIGN INTERFERENCE UNCHECKED: MODELS FOR A U.K. FOREIGN LOBBYING ACT

BY BOB SEELY MP



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With Andrew Foxall and James Rogers

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BY BOB SEELY MP

WITH DR ANDREW FOXALL AND JAMES ROGERS

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ABOUT US



About The Henry Jackson Society

The Henry Jackson Society is a think tank and policy-shaping force that fights for the principles and alliances which keep societies free – working across borders and party lines to combat extremism, advance democracy and real human rights, and make a stand in an increasingly uncertain world.

EXECUTIVE SUMMARY

- Around the world, governments make extensive use of overt lobbying and influence campaigns to advance their interests in other states. There is nothing inherently wrong with this. However, a number of hostile, adversarial, and authoritarian states – including, but not limited to, China and Russia – have utilised lobbying as part of their operations to undermine the West. These operations take place in the so-called “grey zone” between “peace” and “war”, where the distinction between state and non-state, the public and private domains, have grown increasingly blurred.
- In the US alone, foreign actors have spent more than US\$2.3 billion (£1.77 billion) since 2016 to influence policy making through the use of registered “foreign agents”.¹ (For comparison, total spending in the 2016 US Presidential Election has been estimated at US\$2.4 billion.²) Those “agents” include: lobbyists, public relations agencies, businesses, law firms, and individuals. This is well-documented because, since 1938, the US has required those individuals and firms representing foreign powers – their “agents” – to register and declare their work, through the Foreign Agents Registration Act (FARA).
- In 2018, Australia adopted legislation modelled on FARA. The Foreign Influence Transparency Scheme Act (FITSA) was devised in response to growing concerns about China’s influence in the country. In particular, it followed media reports about classified intelligence analysis – requested by Prime Minister Malcolm Turnbull in 2016 – detailing extensive operations by China over the previous decade, including claims that Australian businesses with close ties to the Chinese party-state gave more than US\$5.5 million in donations to Australia’s major political parties between 2013 and 2015.
- In the United Kingdom (UK), no such FARA-like legislation exists. The closest is the 2014 Lobbying Act, which established a mandatory register for written or oral questions to Ministers and Permanent Secretaries by so-called “consultant lobbyists”. However, the Act excludes and fails to regulate all other forms of lobbying by foreign states and their proxies. In addition, the Lobbying Act does not differentiate between clients and those represented, or between foreign and domestic clients. Thus, a UK entity may act on behalf of a foreign entity without the foreign entity being registered.
- Yet hostile, adversarial, and authoritarian states are engaged in a range of lobbying activities in the UK, including: cultivating legal and illicit economic relationships with serving and retired politicians, civil servants, academic institutions, think tanks, and regulatory bodies. In a number of instances, the reason why this lobbying activity is known about is because of disclosures forced by FARA relating to activities in the United States. In other instances, it is the result of investigations by academics, journalists, researchers, and others.

¹ ‘Foreign Lobby Watch’, Centre for Responsive Politics, 9 October 2020, available at: <https://www.opensecrets.org/fara>, last visited: 9 October 2020.

² Ingraham, C., ‘Somebody just put a price tag on the 2016 election. It’s a doozy.’, *The Washington Post*, 14 April 2017, available at: <https://www.washingtonpost.com/news/wonk/wp/2017/04/14/somebody-just-put-a-price-tag-on-the-2016-election-its-a-doozy/>, last visited: 3 November 2020.

- In order to ensure transparency in democratic processes, public debate, and governmental decision-making, this report recommends that the UK adopt a Foreign Lobbying Act (FOLO). A FOLO would force foreign agents – and their proxies in the UK – to register themselves and thus make their existence and activities public knowledge. It would cover a significantly broader range of agents, activities and targets than are currently disclosed in the 2014 Lobbying Act, and apply stringent transparency measures to materials published and disbursement activities related to their activities.

CONTENTS

1. INTRODUCTION	6
2. HOSTILE, ADVERSARIAL, AND AUTHORITARIAN STATES ACTIVITY IN THE UK ...	8
3. LOBBYING REGULATION AND LEGISLATION IN THE UK	12
4. EXISTING FOREIGN LEGISLATION TO PREVENT FOREIGN LOBBYING	14
5. POLICY RECOMMENDATIONS FOR THE UK	18
6. CONCLUSION	22

1. INTRODUCTION

With the return of geopolitical competition among the major powers, the UK is being targeted by authoritarian regimes that seek to undermine the so-called “rules-based international system”. It is easy to understand why. The UK is a leading democracy, a globally important power and a centre for the international finance, legal and media worlds. Besides the use of military power, these regimes are engaging in political warfare, frequently using covert pressure and acting in the shadows. They have had some success, because – as an open society – the UK is vulnerable to outside interference.

The British government is aware of this problem. In the Background Briefing Notes accompanying the Queen’s Speech in December 2019, the government declared that it would work to “reduce the threat posed by Hostile State Activity in the UK” and make “the UK a harder environment for adversaries to operate in.”³ As part of this, the Notes stated that the government would examine “adopting a form of foreign agent registration” by “considering like-minded international partners’ legislation”. Legislation from the United States (US) and Australia was explicitly mentioned.⁴

The US adopted the Foreign Agents Registration Act (FARA) in 1938 in response to concerns that public relations firms were distributing anti-Semitic materials on behalf of Nazi Germany. FARA requires “public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals.”⁵ Eighty years later, in 2018, Australia introduced similar legislation. The Foreign Influence Transparency Scheme Act (FITSA) is modelled on FARA and was devised in response to growing concerns about China’s activities in the country.

In passing their respective legislation, albeit in different points in history, both the US and Australia recognised that the need for transparency in political lobbying was a cornerstone in the protection of democracy.

Separate but complementary to the debate over lobbying, there has also been debate over the responsibility of social media platforms to stem the tide of fake news and to provide greater insight into political communications during elections. Significant work on this issue was undertaken by the Digital, Culture, Media and Sport Committee, which produced a report in February 2019.⁶ The report found that “the UK is clearly vulnerable to covert digital influence campaigns”.⁷ In response to this pressure, Facebook, Google and Twitter have all adopted transparency schemes and devoted resources to clean up foreign interference on their platforms. At the same time, the European Union (EU) has similarly targeted the social media platforms, threatening regulation if they fail to satisfactorily tackle the problem of disinformation on their sites.⁸

³ ‘The Queen’s Speech 2019’ The Prime Minister’s Office (2019), available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/853886/Queen_s_Speech_December_2019_-_background_briefing_notes.pdf, p. 87, last visited: 3 November 2020

⁴ *Ibid.*, pp. 87-88.

⁵ Foreign Relations and Intercourse of 1938 § 611, 22 U.S.C. Retrieved from: <https://www.govinfo.gov/content/pkg/USCODE-2009-title22/pdf/USCODE-2009-title22-chap11-subchapII.pdf>, p. 259

⁶ ‘Disinformation and “fake news”’: Final Report’, Digital, Culture, Media and Sport Committee (2019), available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcmds/1791/1791.pdf>, last visited: 3 November 2020.

⁷ *Ibid.*, p. 71.

⁸ Douek, E., ‘European Commission Communication on Disinformation Eschews Regulation. For Now.’, *Lawfare*, 2 May 2018, available at: <https://www.lawfareblog.com/european-commission-communication-disinformation-eschews-regulation-now>, last visited: 3 November 2020.* Member States have also taken measures. Germany, for example, has passed laws that expose these companies to steep fines if they fail to remove certain offending material within 24 hours. See, Douek, E., ‘Germany’s Bold Gambit to Prevent Online Hate Crimes and Fake News Takes Effect’, *Lawfare*, 31 October 2017, available at: <https://www.lawfareblog.com/germanys-bold-gambit-prevent-online-hate-crimes-and-fake-news-takes-effect>, last visited: 3 November 2020.

Yet propaganda – including a plethora of tactics – is just one element of a broader spectrum of political interference, the most nefarious of which includes overt and covert lobbying by foreign governments, particularly states hostile to the UK, as well as to British interests and values more generally. This lobbying can include, but is not limited to, attempts to persuade Ministers of the Crown to change government policy; applying pressure on public officials; encouraging disharmony between the constituent countries of the UK; undermining British democracy; and/or targeting public opinion through influence campaigns. Alone or as part of a wider strategy, these tactics could undermine British cohesion and weaken the country’s ability to engage with the world.

If the UK is to stymie and deter such activity, new legislation is needed to identify the states, state-linked or state-backed organisations and individuals whose objective is to get inside Britain’s political space and shape it in accordance with their masters’ preferences and interests. As it proceeds, this report first analyses the UK Lobbying Act 2014 and provides an overview of hostile state activities in Britain. It then examines the US’ and Australia’s legislation, before outlining three options – “strong”, “intermediate” and “weak” – for the British government should it decide to adopt similar legislation. For ease of reference, we call this legislation the Foreign Lobbying Act, or FOLO.

2. HOSTILE, ADVERSARIAL, AND AUTHORITARIAN STATES ACTIVITY IN THE UK

The British government has not provided a publicly available definition of “hostile state activity” (HSA). The closest is contained in the “HSA Ports Power Factsheet”, published in 2019, which defines HSA as attempts “to undermine our national security in a wide variety of ways, including espionage and – as the attack in Salisbury has made clear – violence against individuals.”⁹ Definitions, however, do exist. One of the authors of this document, Bob Seely MP, has defined it as “an integrated form of state influence closely linked to political objectives”.¹⁰ Whilst a full definition includes military activity, many of the tools of HSA are not military but are based around political, economic, social, and information manipulation and influence.

Nevertheless, there is broad agreement about the scale and nature of threat that HSA poses. General Sir Nicholas Carter, the current Chief of the Defence Staff, has described HSA as taking place in the “grey zone” between “peace” and “war”.¹¹ That the traditional distinction between “peace” and “war” has collapsed reflects the re-emergence of a new era of discord and competition in international relations. The grey zone is where competing states struggle to secure their interests and undermine their opponents in such a way as to prevent escalation to levels that cannot be managed or controlled, i.e. outright armed conflict, particularly under nuclear conditions.¹²

This results in “cold war”, predicated primarily on political warfare, or the use of all domains and tools of conflict short of conventional war. This includes attempts to get inside a foreign power’s political ecosystem to encourage political or ideological change through persistent, though often subtle and opaque, lobbying. Insofar as such lobbying is often designed to “short circuit” or corrupt a nation’s political life – not least in a democracy like the UK – it is a key form of HSA.

Whilst HSA is practised by a number of authoritarian states, Russia and China are the two most ardent and potent states engaged in this activity.

2.1 Russia

Russia has used a number of state, non-state, and quasi-state entities to do its bidding in the UK.¹³ This includes the state entities Rossotrudnichestvo (the Federal Agency for the Commonwealth of Independent States Affairs, Compatriots Living Abroad and International Humanitarian Cooperation), and the Russkiy Mir (Russian World) organisation. It also includes non-state actors in state-sanctioned operations, such as “hack and leak” activities and social media operations, including the creation of bots and trolls. An analysis

⁹ Home Office, ‘Hostile State Activity Ports Power Fact Sheet’, Gov.uk, 11 February 2019, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/912094/2019-02-11_HSA_Port_Power_factsheet_RA.pdf, last visited: 21 September 2020.

¹⁰ Seely, B., ‘A Definition of Contemporary Russian Conflict: How Does the Kremlin Wage War?’, Henry Jackson Society, June 2018, available at: <http://henryjacksonsociety.org/wp-content/uploads/2018/06/A-Definition-of-Contemporary-Russian-Conflict-new-branding.pdf>, last visited: 3 November 2020, p. 2.

¹¹ For more on “grey zone” competition, see: Carter, N., ‘Dynamic Security Threats and the British Army’, Royal United Services Institute, 22 January 2018, <https://rusi.org/event/dynamic-security-threats-and-british-army>, last visited: 21 September 2020.

¹² Rogers, J., ‘Audit of Geopolitical Capability: An Assessment of Twenty Major Powers 2019’, Henry Jackson Society, 2019, <https://henryjacksonsociety.org/wp-content/uploads/2019/01/HJS-2019-Audit-of-Geopolitical-Capability-Report-web.pdf>, last visited: 21 September 2020, pp. 12-13.

¹³ Foxall, A., ‘The Kremlin’s Sleight of Hand: Russia’s Soft Power Offensive in the UK’, Henry Jackson Society (2015), available at: <http://henryjacksonsociety.org/wp-content/uploads/2015/02/The-Kremlins-Sleight-of-Hand.pdf>, last visited: 13 August 2020.

by the European Values think tank of social media impressions by “Kremlin-owned” media channels during the Brexit campaign showed there were 134 million such impressions.¹⁴ Russia additionally uses “government-organised non-governmental organisations” financed by the Russian state to project its power abroad.¹⁵

Oligarchs are central to Russia’s playbook. The gap between some oligarchs, their firms, and the Russian state is extremely blurred. Some, including those on EU (and US) sanctions lists, have engaged individuals and entities to lobby on their behalf.

The Intelligence and Security Committee’s (ISC) Russia report, released in July 2020, highlights lobbying’s role in the Kremlin’s subversive influence operations in the UK. According to testimony given by Bill Browder, Russia indirectly employed public relations firms to attempt to help Russian individuals avoid EU sanctions.¹⁷ Edward Lucas, who was also interviewed by the ISC, pointed to lobbyists who advocate for Kremlin-connected Russian clients in the UK. According to Christopher Steele, such lobbyists are used to “penetrate British political and business life”.¹⁸

Together with lawyers, accountants, estate agents, public relations professionals, and other pin-striped enablers of Vladimir Putin’s kleptocracy, such lobbyists form “a ‘buffer’ of Westerners who become de facto Russian state agents, many unwittingly, but others with a reason.”¹⁹

2.2 China

Like the Kremlin, the Chinese Communist Party (CCP) uses state, non-state, and quasi-state actors in an effort to advance its interests. One of the ways it does this is through the state-controlled “United Front Work Department” (UFWD), whose role it is to influence foreign governments, control the narrative about China abroad, and encourage foreign citizens to advance China’s interests, or at least not to oppose them.²⁰ The UFWD also makes use of “cultural and ‘friendship’ associations” as part of combined propaganda and

¹⁴ Špalková, V, ‘Influence of Russian Disinformation Operations: Specific Examples in Data and Numbers’, European Values Think-Tank, available at: <https://www.europeanvalues.net/wp-content/uploads/2019/02/Influence-of-Russian-Disinformation-Operations-Specific-examples-in-data-and-numbers.pdf>, last visited: 3 November 2020, p. 7.

¹⁵ Lutsevych, O., ‘Agents of the Russian World: Proxy Groups in the Contested Neighbourhood’, Chatham House, 14 April 2016, available at: <https://www.chathamhouse.org/publication/agents-russian-world-proxy-groups-contested-neighbourhood>, last visited: 2 June 2020.

¹⁶ Dawkins, D., ‘Russian Billionaire Oleg Deripaska Describes U.S. Money Laundering Accusations As “Mish-Mash Of Total Nonsense”’, *Forbes*, 14 February 2020, available at: <https://www.forbes.com/sites/daviddawkins/2020/02/14/report-russian-billionaire-oleg-deripaska-accused-by-us-agency-of-laundering-funds-for-vladimir-putin/>, last visited: 3 November 2020.

¹⁷ dos Santos, N., ‘UK inquiry was warned of Russian infiltration, leaked testimony shows’, CNN, 11 November 2019, available at: <https://edition.cnn.com/2019/11/08/uk/uk-russia-inquiry-intelligence-security-committee-gbr-intl/index.html>, last visited: 13 August 2020.

¹⁸ Sabbagh, D., ‘Johnson and May ignored claims Russia had “likely hold” over Trump, ex-spy alleges’, *The Guardian*, 22 June 2020, available at: <https://www.theguardian.com/world/2020/jun/22/boris-johnson-theres-may-ignored-claims-russia-had-likely-hold-over-donald-trump-ex-spy-christopher-steele-claims>, last visited: 13 August 2020.

¹⁹ Browder, W., in ‘Russia’, Intelligence and Security Committee of Parliament (2020), available at: <https://docs.google.com/a/independent.gov.uk/viewer?a=v&pid=sites&srcid=aW5kZXBlbmRlbnQuZ292LnVrfGlzY3xneDo1Y2RhMGEyN2Y3NjM0OWFI>, last visited: 13 August 2020, p. 15.

²⁰ ‘China’s Overseas United Front Work: Background and Implications for the United States’, U.S.-China Economic and Security Review Commission (2018), available at: <https://www.uscc.gov/research/chinas-overseas-united-front-work-background-and-implications-united-states>, last visited: 13 August 2020, p. 3.

intelligence work.²¹ Blurring the lines between lobbying, espionage, and criminal activity, China is estimated to spend US\$10 billion a year on such “external propaganda” efforts.²² In addition, China’s state-linked organisations utilise their financial status and people to influence governments, at both national and local levels.²³

At the same time, the CCP is active in the spheres of traditional and social media. On the former, China has rapidly expanded its influence over media production and dissemination channels around the world.²⁴ This includes providing content free of charge to Western media and placing adverts in foreign publications, including in the UK. On the latter, the CCP has cultivated a social media army as part of its aim to “tell the China story well”.²⁵ Chinese state media have purchased extensive Twitter, Facebook and Instagram advertising to criticise protests in Hong Kong, gloss over Xinjiang’s internment camps, and promote China’s response to the Coronavirus.²⁶

2.3 The Need for HSA Lobbying Legislation

There is no suggestion that any of the activities outlined above are illegal. Instead, they are included as examples of the types of activities that have taken place in the UK and which, currently, are not subject to legislation to ensure greater transparency. A number of the activities would be unknown were it not for disclosures forced by FARA relating to activities in the United States, or investigations undertaken by academics, journalists, researchers, and others.

Yet with the intensification of “wider state competition”, as the 2018 National Security Capability Review described it, the need for legislation that targets such activities, as part of foreign influence operations, is increasingly urgent.

As the next section makes clear, Britain’s primary piece of legislation for combatting such activity is the 2014 Lobbying Act. However, as we go on to explain, this legislation is far too narrow in scope to combat hostile, adversarial, and authoritarian states’ use of multiple and covert vectors of influence. These have come to include supposedly private companies;²⁷ academic institutes²⁸ and student organisations,²⁹ potentially under the influence or direction

²¹ Ibid.

²² Brown, K., ‘China’s \$10bn propaganda push spreads Down Under’, *Financial Times*, 9 June 2016, available at: <https://www.ft.com/content/324d82c4-2d60-11e6-a18d-a96ab29e3c95>, last visited: 3 November 2020. See also, ‘China is spending billions to make the world love it’, *The Economist*, 23 March 2017, available at: <https://www.economist.com/china/2017/03/23/china-is-spending-billions-to-make-the-world-love-it>, last visited: 8 June 2020.

²³ Brady, A., ‘Chinese interference: Anne-Marie Brady’s full submission’, *Newsroom*, 8 May 2019, available at: <https://www.newsroom.co.nz/2019/05/08/575479/anne-marie-bradys-full-submission>, last visited: 1 June 2020. See also, Chiu, J., “‘Prime targets’: Are Canada’s local politicians in the sights of Beijing’s global PR machine?”, *The Star*, 8 August 2020, available at: <https://www.thestar.com/news/canada/2020/08/08/are-canadas-local-politicians-a-target-for-beijings-global-pr-machine.html>, last visited: 3 November 2020.

²⁴ Cook, S., ‘Beijing’s Global Megaphone’, Freedom House, 2020, available at: <https://freedomhouse.org/report/special-report/2020/beijings-global-megaphone>, last visited: 13 August 2020.

²⁵ Yang, Y., ‘China’s Communist party raises army of nationalist trolls’, *Financial Times*, 30 December 2017, available at: <https://www.ft.com/content/9ef9f592-e2bd-11e7-97e2-916d4fbac0da>, last visited: 8 June 2020.

²⁶ Dodds, L., ‘China mounts social media blitz with Facebook adverts smearing Hong Kong protesters’, *The Telegraph*, 20 August 2019, available at: <https://www.telegraph.co.uk/technology/2019/08/20/china-mounts-social-media-blitz-facebook-adverts-smearing-hong/>, last visited: 13 August 2020.

²⁷ Seely, B., Varnish, P. and Hemmings, J., ‘Defending our data: Huawei, 5G and the Five Eyes’, Henry Jackson Society, 16 May 2019, available at: <https://henryjacksonsociety.org/publications/defendingourdata/>, last visited 3 November 2020.

²⁸ ‘Rubio Raises Concerns About the Growing Threat Posed by China’, 13 February 2018, Marco Rubio, available at: <https://www.rubio.senate.gov/public/index.cfm/press-releases?ID=F998DBAA-6C2B-4BA0-891C-7647BDEAD31F>, last visited: 8 June 2020.

²⁹ Anderlini, J. and Smyth, J., ‘West grows wary of China’s influence game’, *Financial Times*, 19 December 2017, available at: <https://www.ft.com/content/d3ac306a-e188-11e7-8f9f-de1c2175f5ce>, last visited: 8 June 2020.

of state actors; foreign individuals, who may be acting in the interests of hostile, adversarial, and authoritarian states; and English-language propaganda outlets masquerading as media organisations.³⁰

Greater transparency about the activities of hostile, adversarial, and authoritarian states can also help protect benign organisations from becoming accidentally tarred with the brush of authoritarian meddling. Additional visibility will mean it is possible to distinguish between legitimate influence operations – which rightfully have a place in democracy – whilst tackling illegitimate influence operations. The latter is practised only by a select few hostile, adversarial, and authoritarian states, with intent to undermine the very institutions they exploit to their ends.

³⁰ Gui Qing, K. and Shiffman, J., 'Beijing's covert radio network airs China-friendly news across Washington, and the world', Reuters, 2 November 2015, available at: <https://www.reuters.com/investigates/special-report/china-radio/>, last visited: 13 August 2020.

3. LOBBYING REGULATION AND LEGISLATION IN THE UK

UK Parliament defines lobbying as “when an individual or a group tries to persuade someone in Parliament to support a particular policy or campaign. Lobbying can be done in person, by sending letters and emails or via social media.”³¹ Parliament publishes a Code of Conduct for the House of Commons and the House of Lords, and both have long provided clear guidance on what is and is not permissible in respect of lobbying. The 2019 iteration of the House of Commons Code of Conduct, for example, states clearly: “No Member shall act as a paid advocate in any proceeding of the House.”³²

Despite this, however, lobbying in the UK had been entirely self-regulating. This self-regulation was provided by three main industry bodies: the Chartered Institute of Public Relations (CIPR), the Public Relations and Communications Association (PRCA), and the Association of Professional Political Consultants (APPC). A Public Administration Select Committee (PASC) Inquiry in 2007–2009 examined this system of self-regulation, and found that it would be more effective if there was one single body. As a result, the UK Public Affairs Council (UKPAC) was established in 2010. UKPAC created a set of Guiding Principles and an online voluntary register of lobbyists, but it was and remains primarily an umbrella body.

3.1 Overview of the UK’s Lobbying Act 2014

In July 2013, following a wave of lobbying scandals earlier that year, the government introduced The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill (hereafter, the Lobbying Act) to parliament.³³ It received Royal Assent on 30 January 2014. The Lobbying Act established a mandatory register for “consultant lobbyists”, and defines “consultant lobbying” as:

- (a) in the course of a business and in return for payment, the person makes communications within subsection (3) on behalf of another person or persons,
- (b) the person is registered under the Value Added Tax Act 1994, and
- (c) none of the exceptions in Part 1 of Schedule 1 applies³⁴

Subsection (3) defined lobbying activities in the following terms:

The communications within this subsection are oral or written communications made personally to a Minister of the Crown or permanent secretary relating to—

- (a) the development, adoption or modification of any proposal of the government to make or amend primary or subordinate legislation;
- (b) the development, adoption or modification of any other policy of the government;
- (c) the making, giving or issuing by the government of, or the taking of any other steps by the government in relation to,—

³¹ ‘Lobbying Parliament’, UK Parliament, available at: <https://www.parliament.uk/get-involved/contact-an-mp-or-lord/lobbying-parliament/>, last visited: 4 November 2020.

³² ‘The Code of Conduct’, House of Commons (2019), available at: <https://publications.parliament.uk/pa/cm201719/cmcode/1882/1882.pdf>, last visited: 4 November 2020, p. 35.

³³ ‘Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014’, HM Government (2014), available at: <https://www.legislation.gov.uk/ukpga/2014/4/contents/enacted>, last visited: 13 August 2020.

³⁴ UK Parliament (2014). Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014. Retrieved at www.parliament.uk.

- (i) any contract or other agreement,
 - (ii) any grant or other financial assistance, or
 - (iii) any licence or other authorisation; or
- (d) the exercise of any other function of the government.³⁵

Thus, only overt lobbying activity is registrable. Within this, only written or oral questions to ministers and Permanent Secretaries by consultant lobbyists are covered. All other forms of lobbying by any other individuals or firms fall outside the Lobbying Act's remit – including social media campaigns, programmes from state-directed broadcast media, campaigns in print media (both paid-for and free), in-house PR campaigns by state-linked companies, any broad political campaigning not involving representations to ministers or high-ranking civil servants, and any campaign work by freelancers not employed by consultant lobbyists. As a result, they are effectively unregulated.

Additionally, there is no visibility of lobbying activity towards MPs or local councillors, the staff of regulatory bodies, private companies providing public services, or any but the most senior members of the civil service.³⁶ The Lobbying Act also does not differentiate between clients and those represented, or between foreign and domestic clients. Thus, a consultant lobbyist would not have to register the person or entity they are actually lobbying for, only the person or entity that contracted them to do so. In short, a UK entity may act on behalf of a foreign entity without the foreign entity being registered.

Furthermore, the Lobbying Act also does not account for so-called “digital campaigning” during election periods, or require an individual or entity who has created digital materials to make this clear.³⁷ This is in contrast to non-digital (i.e., hard) materials, wherein the Electoral Commission requires individuals or entities to state their names on materials they have created. In the words of the Electoral Commission:

...anyone outside the UK can also pay for adverts on digital and social media platforms to target voters in the UK ... people who are not allowed to register as campaigners can still spend money to influence voters in the UK. This could be from foreign nation states or from private organisations and individuals.³⁸

The Commission expressed concern that due to this loophole, voters may not know who is targeting them as the UK's electoral rules currently allow for overseas spending.³⁹ The rules bear no requirement to disclose the publisher of political campaigns online, or who paid for them. All of this allows foreign governments to discreetly, and legally, turn cash into influence. At the same time, political adverts are unregulated by the Advertising Standards Authority (ASA).⁴⁰ The ASA's regulations apply to broadcasts on television and radio, but not to social media and other non-broadcast media. These adverts do not have to be truthful.

³⁵ Ibid.

³⁶ 'Lifting the lid on lobbying: the hidden exercise of power and influence in the UK', Transparency International (2015), available at: <https://www.transparency.org.uk/publications/liftthelid/>, last visited: 13 August 2020, p. 2.

³⁷ On this, see Information Commissioner's Office 'Democracy disrupted? Personal information and political influence', 11 July 2018, available at: <https://ico.org.uk/media/action-weve-taken/2259369/democracy-disrupted-110718.pdf>, last visited: 4 November 2020.

³⁸ 'Report: Digital campaigning – increasing transparency for voters', The Electoral Commission, 1 June 2018, available at: <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/changing-electoral-law/transparent-digital-campaigning/report-digital-campaigning-increasing-transparency-voters>, last visited: 8 November 2020.

³⁹ Ibid.

⁴⁰ Conway, L., 'Political advertising', House of Commons Library Briefing Paper (2019), available at: <https://commonslibrary.parliament.uk/research-briefings/cbp-8673/>, last visited 8 June 2020.

4. EXISTING FOREIGN LEGISLATION TO PREVENT FOREIGN LOBBYING

New lobbying legislation is needed in order to safeguard the UK’s democratic processes. The case for such legislation was made in the Queen’s Speech of December 2019, described at the outset of the paper. In the Briefing Notes accompanying Her Majesty’s speech, the government announced that it would consider “adopting a form of foreign agent registration” as well as “updating the Official Secrets Acts for the 21st century” and “updating treason laws”.⁴¹ In doing so, it said it would examine “like-minded international partners’ legislation, to see whether the UK would benefit from adopting something similar. This includes the US and Australia.”⁴²

Using the Queen’s Speech as its point of departure, this section examines the US’ Foreign Agents Registration Act (FARA) legislation and Australia’s Foreign Influence Transparency Scheme Act (FITSA) legislation. While FARA and FITSA are similar -- as already noted, FITSA is modelled on FARA -- differences exist between them. For example, FARA is broader than FITSA in its definition of a “foreign principal” and “registerable activities”, while FITSA is broader than FARA in the respect that the former does not include an exemption from registration for those already registered as political lobbyists. At the same time, FITSA includes greater powers to ensure compliance. This section analyses these similarities and differences, and more.

4.1 United States

The US Congress passed FARA in 1938. It followed a scandal, four years earlier, in which Carl Byoir and Associates, an American public relations firm, was reported to have received US\$6000 a month – approximately US\$155,000 in 2020 terms – to distribute anti-Semitic materials on behalf of the Nazi government of Germany.⁴³

FARA initially required “public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals”⁴⁴ and required companies to register with the US government and disclose information about their clients, activities, and contract terms. As the Second World War led into the Cold War, however, FARA’s focus shifted from propaganda to the integrity of the US government’s decision-making process.⁴⁵

In 1966, the definition of a “foreign agent” was narrowed from an entity conducting political propaganda to one conducting political lobbying. This was driven, in part, by commercial interests, in particular foreign sugar interests.⁴⁶ An additional amendment was made in 1995, when the term “political propaganda” was removed. The same year, the Lobbying Disclosure Act was introduced, which removed certain agents from FARA and covered them within the new legislation.⁴⁷

⁴¹ ‘The Queen’s Speech 2019’, pp. 87-88.

⁴² *ibid.*

⁴³ Harris, M., ‘Lobbying scandal: we used to imprison foreign agents – now we give them six-figure salaries’, *The Telegraph*, 10 April 2012, available at: <https://www.telegraph.co.uk/news/politics/9196266/Lobbying-scandal-we-used-to-imprison-foreign-agents-now-we-give-them-six-figure-salaries.html>, last visited: 4 November 2020.

⁴⁴ Foreign Relations and Intercourse of 1938 § 611, 22 U.S.C. Retrieved from: <https://www.govinfo.gov/content/pkg/USCODE-2009-title22/pdf/USCODE-2009-title22-chap11-subchap11.pdf>, p. 259, last visited: 10 November 2020.

⁴⁵ ‘Foreign Agents Registration Act Enforcement’, United States Department of Justice Archives, updated 7 December 2018, available at: <https://www.justice.gov/archives/usam/criminal-resource-manual-2062-foreign-agents-registration-act-enforcement>, last visited: 27 May 2020.

⁴⁶ ‘Foreign Agents Registration Act: An Overview’, Congressional Research Service, updated 7 March 2019, available at: <https://fas.org/spp/crs/misc/IF10499.pdf>, last visited: 27 May 2020.

⁴⁷ ‘Lobbying Disclosure Act of 1995’, United States Congress (1995), available at: <https://lobbyingdisclosure.house.gov/lda.pdf>, last visited: 4 November 2020.

In the last decade, as inter-state competition has re-emerged, FARA has gained renewed importance. This is best illustrated by Special Counsel Robert Mueller's investigation into Russian interference in the 2016 Presidential Election.⁴⁸ As a result of Mueller's investigation, FARA was used to prosecute a number of individuals,⁴⁹ including Donald Trump's campaign chairman, Paul Manafort, and Manafort's business partner, Richard Gates.

In the years since, three Russian companies (including the Internet Research Agency LLC) have been indicted under FARA for "committing crimes while seeking to interfere in the U.S. political system, including the 2016 presidential election".⁵⁰ This related to concealing Russian identities and producing, purchasing and posting adverts on US social media to advocate Donald Trump and oppose Hillary Clinton.⁵¹ RT Broadcasting, which broadcast radio programmes produced by the state-owned Sputnik station, has also been identified as acting on behalf of Russia.⁵² And after RT registered, it lost its congressional pass credentials.⁵³

Despite this apparent success, however, there is a sense that FARA is "complicated, arcane, and loosely worded".⁵⁴ As the international legal firm Covington explained in a 2018 briefing note:

FARA is written so broadly that, if read literally, it could potentially require registration even for some routine business activities of law firms, lobbying and public relations firms, consulting firms, nonprofit advocacy groups, charitable organizations, ethnic affinity organizations, regional trade promotion groups, think tanks, universities, media organizations, trade associations, U.S. subsidiaries of foreign companies, and other commercial enterprises.⁵⁵

Such broad language means that even innocuous activities are covered. For example, a US think tank would need to register under FARA if it held a public discussion at the request of a UK-based organisation to discuss the changing nature of the Transatlantic Alliance. This is because the US think tank would be acting at the "request" of a "foreign principal" (the UK-based organisation) to engage in a "political activity" – in this case, creating a discussion forum that could influence public opinion.⁵⁶

⁴⁸ Mueller, R.S, 'Report On The Investigation Into Russian Interference In The 2016 Presidential Election', US Department of Justice (2019), available at: <https://www.justice.gov/storage/report.pdf>, last visited: 4 November 2020.

⁴⁹ 'Recent FARA cases', US Department of Justice (2019), available at: <https://www.justice.gov/nsd-fara/recent-cases>, last visited: 4 November 2020.

⁵⁰ *ibid.*

⁵¹ Laufman, D., 'FARA Enforcement: The Year Ahead', David Laufman Law, 7 February 2019, available at: <https://www.davidlaufmanlaw.com/wp-content/uploads/sites/108/2019/02/FARA-Enforcement-Law360-article-of-Feb.-7-2019.pdf>, last visited: 27 May 2020.

⁵² Dunleavy, J., 'DOJ celebrates judge ruling radio station must register under FARA as Russian agent', *Washington Examiner*, 14 May 2019, available at: <https://www.washingtonexaminer.com/news/doj-celebrates-judge-ruling-radio-station-must-register-under-fara-as-russian-agent>, last visited: 27 May 2020.

⁵³ 'US orders Chinese state media to register as foreign agents', *The Telegraph*, 20 September 2018, available at: <https://www.telegraph.co.uk/news/2018/09/20/us-orders-chinese-state-media-register-foreign-agents-beijing/>, last visited: 27 May 2020.

⁵⁴ 'The Foreign Agents Registration Act ("FARA"): A Guide for the Perplexed', Covington, 26 July 2019, available at: https://www.cov.com/-/media/files/corporate/publications/2018/01/the_foreign_agents_registration_act_fara_a_guide_for_the_perplexed.pdf, last visited: 27 May 2020.

⁵⁵ *Ibid.*

⁵⁶ Rutzen, D. and Robinson, N. 'The Unintended "Foreign Agents"', *Just Security*, 16 March 2018, available at: <https://www.justsecurity.org/53967/unintended-foreign-agents/>, last visited: 27 May 2020.

4.2 Australia

Australia passed two national security and foreign interference laws in 2018.⁵⁷ The FITSA follows the US' FARA template by establishing a registration scheme for communications activities undertaken on behalf of or in collaboration with a "foreign principal",⁵⁸ while the Espionage and Foreign Interference Act (EFIA) aims to counter foreign powers "exercising improper influence" over Australia's "system of government and political landscape".⁵⁹

FITSA (and EFIA) was introduced into the Australian Parliament in December 2017, and was adopted the following summer amid a political storm about Chinese influence in Australian politics. This followed media reports about classified intelligence analysis – requested by Prime Minister Malcolm Turnbull in 2016 – detailing extensive operations by China over the previous decade.⁶⁰ Included in these reports were revelations that Australian businesses with close ties to the Chinese party-state gave more than US\$5.5 million in donations to Australia's major political parties between 2013 and 2015;⁶¹ controversy surrounding Labor Senator Sam Dastyari, who publicly supported China's aggressive posture in the South China Sea, contrary to his party's position;⁶² and concerns that the CCP was monitoring Chinese nationals, in particular students, in Australia.⁶³

FITSA makes it illegal for a person to knowingly engage in covert conduct or deception on behalf of a "foreign principal" (which includes any foreign government, foreign political organisation, or related entities or persons) with the intention of influencing an Australian political process or prejudicing national security.⁶⁴ National security is defined not only as the defence of the country but also its "political, military or economic relations" with other countries. FITSA also makes it illegal to attempt to influence a person in relation to any political process or exercise of a democratic right on behalf of or in collaboration with a foreign principal if this foreign connection is not disclosed to the person.

Anybody who undertakes any political lobbying or any kind of communications activity for the purpose of political influence on behalf of a foreign principal is required to register with the government within 14 days. Failure to do so is punishable by between two and five

⁵⁷ The following year, in 2019, Australia also adopted comprehensive guidelines against interference in academic environments. See, 'Guidelines to Counter Foreign Influence in the Australian University Sector', University Foreign Interference Taskforce, November 2019, available at: https://docs.education.gov.au/system/files/doc/other/ed19-0222_-_int_-_ufit_guidelines_acc.pdf, last visited: 4 November 2020.

⁵⁸ Ibid.

⁵⁹ 'National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018', Australian Government (2018), available at: <https://www.legislation.gov.au/Details/C2018A00067>, last visited: 27 May 2020.

⁶⁰ Borys, S., 'China's "brazen" and "aggressive" political interference outlined in top-secret report', ABC, 29 May 2018, <https://www.abc.net.au/news/2018-05-29/chinas-been-interfering-in-australian-politics-for-past-decade/9810236>, last visited: 13 August 2020.

⁶¹ Uhlmann, C., 'Australian businesses with close ties to China donated \$5.5m to political parties, investigation shows', ABC, 22 August 2016, available at: <https://www.abc.net.au/news/2016-08-21/australian-groups-strong-ties-china-political-donations/776801>, last visited: 27 May 2020.

⁶² Murphy, K., 'Sam Dastyari told to resign from Senate positions after China revelation', *The Guardian*, 29 November 2017, available at: <https://www.theguardian.com/australia-news/2017/nov/30/sam-dastyari-told-to-resign-from-senate-positions-after-china-revelation>, last visited 27 May 2020.

⁶³ McKenzie, N., Baker, R., Koloff, S. and Uhlmann, C., 'The Chinese Communist Party's power and influence in Australia', ABC, 29 March 2018, available at: <https://www.abc.net.au/news/2017-06-04/the-chinese-communist-partys-power-and-influence-in-australia/8584270>, last visited: 27 May 2020.

⁶⁴ Douek, E., 'What's in Australia's New Laws on Foreign Interference in Domestic Politics', *Lawfare*, 11 July 2018, available at: <https://www.lawfareblog.com/whats-australias-new-laws-foreign-interference-domestic-politics>, last visited: 27 May 2020.

years' imprisonment. This part of the Act is intended not only to catch people engaging in foreign interference but also to increase public awareness about the extent of lobbying by foreign principals in an effort to influence Australian politics through arrangements with intermediaries that might otherwise have been obscured.⁶⁵

When FITSA (and EFIA) was first introduced into the Australian Parliament, the draft bill came under heavy criticism for its broad definitions – with suggestions that it would impose additional duties on charities,⁶⁶ journalists,⁶⁷ protestors,⁶⁸ and others that could stifle legitimate political expression and stymie efforts to hold the government to account.⁶⁹ As a result, when the legislation was adopted it contained significant amendments.⁷⁰ As it exists, FITSA seeks to strike a balance between the thousands of benign activities undertaken on behalf of foreign NGOs, charities, universities, companies and media organisations within democracies, and the efforts of foreign powers to interfere via means outside of overt lobbying – sometimes through these very organisations.

While many see FITSA as a success, there have been issues surrounding its implementation and enforcement, which are largely a result of the under-funding of the Australian Security Intelligence Organisation (ASIO).⁷¹ In its 2019-2020 annual report, ASIO acknowledged that the demand for the organisation's advice on foreign interference exceeded its capacity.⁷² Beyond this, there has been widespread criticism of the so-called “foreign influence register” for not capturing harmful agents of foreign influence.⁷³

⁶⁵ ‘Advisory Report on the Foreign Influence Transparency Scheme Bill 2017’, Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia (2018), available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/TransparencySchemeBill/Report/section?id=committees%2Freportjnt%2F024192%2F26235, last visited: 27 May 2020.

⁶⁶ Karp, P., ‘Charities warn foreign influence register could harm development work’, *The Guardian*, 21 June 2018, available at: <https://www.theguardian.com/australia-news/2018/jun/22/charities-warn-foreign-influence-register-could-harm-development-work>, last visited: 27 May 2020.

⁶⁷ Taylor, L., ‘We need to talk about press freedom before it’s too late’, *The Guardian*, 22 June 2018, available at: <https://www.theguardian.com/media/2018/jun/22/we-need-to-talk-about-press-freedom-before-its-too-late>, last visited: 27 May 2020.

⁶⁸ Karp, P., ‘Espionage bill could make some protests criminal acts, GetUp says’, *The Guardian*, 26 June 2018, available at: <https://www.theguardian.com/australia-news/2018/jun/26/espionage-bill-could-make-some-protests-criminal-acts-getup-says>, last visited: 27 May 2020.

⁶⁹ ‘Review of the National Security Legislation Amendment (Espionage and Foreign Interference) Bill 2017 Submission 30’, United Nations UN Special Rapporteurs of Freedom of Expression, Human Rights and Counter-Terrorism, and Human Rights Defenders (2018), available at: <https://www.aph.gov.au/DocumentStore.ashx?id=11baa08b-7997-47cd-acd5-43de6c7c064a&subId=563605>, last visited: 27 May 2020.

⁷⁰ Remeikis, A., ‘Spy laws: 60 changes revealed but Coalition and Labor expected to pass “terrifying” legislation’, *The Guardian*, 7 June 2018, available at: <https://www.theguardian.com/australia-news/2018/jun/07/spy-laws-60-changes-revealed-but-coalition-and-labor-expected-to-pass-legislation>, last visited: 27 May 2020.

⁷¹ ‘Australia Promises More Money for Overwhelmed Spy Agency’, Associated Press, 17 October 2019, available at: <https://www.voanews.com/east-asia-pacific/australia-promises-more-money-overwhelmed-spy-agency>, last visited: 4 November 2020.

⁷² Australia Security Intelligence Organisation (2020). *ASIO Annual Report 2019-2020*. Retrieved from <https://www.asio.gov.au/sites/default/files/ASIO%20Annual%20Report%202019-20.pdf>.

⁷³ Galloway, A., ‘ASIO’s counter-terrorism powers to be widened to catch foreign spies’, *Sydney Morning Herald*, 1 March 2020, available at: <https://www.smh.com.au/politics/federal/asio-s-counter-terrorism-powers-to-be-widened-to-catch-foreign-spies-20200228-p545h0.html>, last visited: 4 November 2020.

5. POLICY RECOMMENDATIONS FOR THE UK

We recommend five major reforms to tackle the issue of foreign lobbying in the UK.

1. Create laws to compel those individuals and entities who lobby in the UK on behalf of hostile, adversarial, and authoritarian states and their proxies to record their activities on a national register.

The British public deserves to know the extent of lobbying by individuals and entities on behalf of hostile, adversarial, and authoritarian states to influence British decision-makers and policy-makers.

- **Expand the current definition of registrable “lobbyists” to include a broader range of individuals and entities.**

“Consultant lobbyists” are important, but they are only one part of the problem. Hostile, adversarial, and authoritarian states also make use of non-lobbyist individuals and entities, such as those backed by, or linked with, the state, including those active in the spheres of academia, economics, culture, and the media. Registrable lobbyists should include anyone who lobbies or influences on behalf of foreign states or their proxies, including PR consultants, research firms, reputation managers, law firms, and banks.

- **Expand the current definition of registrable lobbying to a broader range of “political activities”.**

There is no requirement for foreign agents to register political activities in the UK unless they lobby ministers or permanent secretaries. Yet all other forms of lobbying should be registrable too, including social media campaigns and state-directed broadcast media, and campaigns directed at MPs, peers, local councillors, the staff of the civil service and regulatory bodies, companies, and NGOs.

2. Create laws to force foreign governments or their proxies to disclose when they spend money on political activities in the UK.

Any individual or entity who undertakes lobbying on behalf of a hostile, adversarial, and authoritarian states should register their activity with the government promptly. This is necessary to keep a record of who undertakes lobbying, when, and for how much, on behalf of a hostile, adversarial, and authoritarian states.

3. Create laws that bar foreign governments or their proxies from providing political, financial and other support during election periods.

If lobbying is understood as an attempt to persuade somebody in Parliament to support a particular policy or campaign, then there is rarely a better opportunity to do this than during an election period. Yet foreign governments and organisations are not explicitly prohibited from spending money in the UK to influence election and referendum campaigns. Political campaigns can increasingly be fought online, yet social media is not currently covered by UK legislation. The British public should know how and when foreign governments spend money on political campaigns in the UK.

4. Create laws to compel foreign governments and their proxies to label and disclose materials and campaigns undertaken in the UK, including those online.

Foreign powers use a combination of offline and online media to promote their interests and attempt to change UK policy. The Electoral Commission does not currently have the power to make campaigners disclose online material. As we have already outlined, the lobbying disclosure law only tackles efforts to influence ministers or permanent secretaries. Both online and offline, political advertising should disclose if it has been published on behalf of a foreign government, however indirectly.

5. Make the above four laws enforceable by criminal penalty.

To act as a deterrent, enhanced UK foreign lobbying legislation would need to contain penalties to punish wrongdoers and deter potential perpetrators. Penalties should include fines high enough to deter, as well as imprisonment.

For each of the five reforms, we propose three policy options, each of which is based on three variables, relating to the stringency, specificity and scope of the legislation. For ease of reference, we call these three policy options weak, intermediate and strong.

5.1 Option 1: “Weak”

The weak policy option is the least stringent, most specific, and most modest in legislative scope. Only those individuals or entities that wittingly lobby on behalf of foreign governments or political entities would need to register, and only when a payment arrangement is in place. In many respects, this is not a “catch-all” foreign agents registration act but simply a moderate strengthening of the 2014 Lobbying Act.

Summary of Requirements (Weak)	
Activities covered on behalf of foreign principals	A narrow range of lobbying activities addressed at UK politicians and officials at the national, regional and local levels.
Foreign principals covered	Foreign governments or political parties.
Definition of agent	Any person wittingly acting for or requested to act for foreign principals, only when a payment arrangement is in place.
Requirements of registration	A minimum financial threshold of £1000 applies for registration. Initial registration is required, and this is to be updated annually.
Exemptions	Members of Parliament; civil servants; foreign government employees in the UK; artistic or cultural endeavours; and a list of specified professions (for example, those who work in humanitarian aid, or those who provide legal advice or legal representation).
Enforcement	A civil penalty for non-registration. The civil penalty, as in the case of Electoral Commission fines, may be small.

5.2 Option 2: “Intermediate”

The intermediate policy option provides the middle ground in terms of stringency, specificity, and legislative scope. Only those individuals or entities who receive payment for lobbying would be compelled to register. The option would cover foreign governments or political parties, or any entity owned or controlled by a foreign government. For example, UK media that is paid to carry material created by foreign-government-owned or foreign-government-controlled media would be compelled to register.

Summary of Requirements (Intermediate)	
Activities covered on behalf of foreign principals	Attempts to politically lobby UK politicians and officials at the national, regional and local levels, as well as efforts to shape British public opinion on political issues.
Foreign principals covered	Foreign governments or political parties, or any entity owned or controlled by a foreign government.
Definition of agent	Any person acting for or requested to act for foreign principals, when a payment arrangement with a foreign principal is in place.
Requirements of registration	A minimum financial threshold of £500 applies for registration. A statement of activities is required every six months.
Exemptions	Only legitimate commercial interests (to be defined in legislation) are excluded from registration.
Enforcement	Implementation of criminal charges, up to five years. Fines, up to an unlimited amount. Specific checks for listed people and their associates.

5.3 Option 3: “Strong”

The strong policy option is the most stringent, least specific, and most ambitious in legislative scope. Those who lobby on behalf of foreign governments and their proxies, authoritarian or otherwise, would be compelled to register as foreign agents. This would cover all influence operations undertaken in the UK conducted by foreign states and their proxies, witting or otherwise. For example, UK media that carries material created by foreign-government-owned or foreign-government-controlled media would be compelled to label such material as being published on behalf of the foreign government.

Summary of Requirements (Strong)	
Activities covered on behalf of foreign principals	Any form of lobbying activity, understood in the broadest possible sense, designed to change regulations in the UK.
Foreign principals covered	Any foreign body. Some individuals, such as former position holders, would be automatically covered.
Definition of agent	Any person acting for or requested to act for foreign principals, regardless of whether a payment arrangement with a foreign principal is in place.
Requirements of registration	No minimum financial threshold for registration. Registration must take place 14 days after the activity commences or takes place.
Exemptions	None. (Diplomatic officials would have immunity.)
Enforcement	Implementation of criminal charges, up to five years. Fines, up to an unlimited amount. Specific checks for listed people and their associates.

A variation on the three options above would be to adopt a two-tier approach to regulation. For democratic or allied foreign states and their proxies, a basic standard of transparency would be required. For hostile, adversarial, and authoritarian states and their named proxies, there is a much higher set of requirements that need to be met. The threat to democratic transparency from Chinese state entities or Russian oligarchs is greater than, for example, the New Zealand Tourist Board.

6. CONCLUSION

The increase in major power competition that has taken place over the past decade looks unlikely to abate. As the international environment becomes more volatile, rising authoritarian powers are likely to continue in their efforts to undermine the rules-based international system and use covert influence to pursue their political, security and economic agendas. This means that the UK, as a leading democracy, a power with global reach, and as a hub for the English-language global media, will continue to be targeted. Indeed, as the Intelligence and Security Committee's Russia report makes clear, it has already been targeted. In addition to human interaction, the digital communications revolution means that, potentially, it has become easier than ever before to influence target audiences in the UK as part of campaigns to change official policy and public opinion. The government has recently confirmed Russian attempts to manipulate both the Scottish and European referendums.

Britain must be vigilant and resilient to efforts by foreign – particularly hostile – powers to get inside its political ecosystem to effect change. For this reason, as the government announced in the last Queen's Speech, the UK should accelerate the development of the necessary legislation to shut out and deter hostile state activity. The US and Australia have already provided British legislators with examples of similar legislation. Each country's legislation – FARA and FITSA, respectively – has its merits and drawbacks. The UK could learn from both countries' experiences as it works out what equivalent British legislation might look like.

As we show, in essence there are three options for future British legislation to curtail foreign lobbying, based on stringency, specificity and legislative scope. While the "Strong" option – which is most stringent, least specific and most legislatively broad – might appear attractive, it would require careful consideration. Foreign funding of universities and think tanks, for example, does not necessarily turn them into the lobbyists of foreign governments. Financial arrangements do not imply foreign influence, and policy research is often independent of funding. To shed light on foreign governments and their proxies' attempts to exert influence in the UK requires a very strong definition of foreign lobbying. Enforcing heavy-handed disclosure and reporting requirements on genuine free press, academic organisations such as universities, and think tanks, trade bodies, and journalists/media, could even undermine the democratic system it tries to protect.

At the other end of the spectrum, the "Weak" option – which lacks stringency, is very specific, and has a narrow legislative scope – might be insufficient to deter foreign governments and their proxies from engaging in malicious political activities. It may also encourage them to escalate horizontally, so as to evade its grip, which could have manifold unintended consequences. These would need to be carefully thought out.

But whatever is done, it is clear that the laws need updating and improving. It is also clear that what we suggest will require reforms to other regulatory frameworks, for example the Advisory Committee on Business Appointments (ACOBA) and the Civil Service Code. The proposed FOLO could also contain powers to strengthen the role of Ofcom, with an attendant focus on the more ethically questionable practices associated with authoritarian “black PR”⁷⁴ and other aspects of the Kremlin’s “active measures” playbook.⁷⁵

The UK is playing catch-up, and any action taken by the government will be remedial. This is true not just of lobbying (which has been the focus of this paper), but also of the much broader playbook used by hostile, adversarial, and authoritarian states (of which lobbying is one small part of a much larger, complex whole). A British FOLO act of the kind we have outlined would go some way to change that, but it is only the start.

⁷⁴ Foxall, A. ‘Putin’s “Black PR” has arrived in Britain’, *The Spectator*, 14 August 2020, available at: <https://www.spectator.co.uk/article/beware-putin-s-black-pr->, last visited: 4 November 2020.

⁷⁵ Seely, B., ‘A Definition of Contemporary Russian Conflict: How Does the Kremlin Wage War?’, Henry Jackson Society, June 2018, available at: <http://henryjacksonsociety.org/wp-content/uploads/2018/06/A-Definition-of-Contemporary-Russian-Conflict-new-branding.pdf>, last visited: 4 November 2020.

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MODELS FOR A U.K. FOREIGN LOBBYING ACT"

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